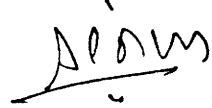


महाराष्ट्र प्रादेशिक नियोजन व नगर रचना अधिनियम, १९६६
कलम ३७(२) अन्वये विकास नियंत्रण नियमावलीत
करावयाच्या फेरबदलाबाबतची अधिसूचना.

महाराष्ट्र शासन,
नगर विकास विभाग,
शासन निर्णय क्रमांक: टिपीबी-४३०७/२३४६/प्र.क्र.१०६/२००८/नवि-११
मंत्रालय, मुंबई : ४०० ०३२, दिनांक : २ मार्च, २००९.

शासन निर्णय:- सोबतची अधिसूचना राज्य शासनाच्या साधारण राजपत्रात प्रसिध्द करण्यात
यावी.

महाराष्ट्राचे राज्यपाल यांच्या आदेशानुसार व नांवाने,



(अभिराज गिरकर)

अवर सचिव, महाराष्ट्र शासन.

प्रति,

सचिव, गृहनिर्माण विभाग, मंत्रालय, मुंबई.

महापालिका आयुक्त, बृहन्मुंबई महानगरपालिका, मुंबई.

महानगर आयुक्त, मुंबई महानगर प्रदेश विकास प्राधिकरण, वांद्रे-कुर्ला संकुल, वांद्रे (पूर्व), मुंबई-५१.

मुख्य कार्यकारी अधिकारी, म्हाडा, गृहनिर्माण भवन, वांद्रे (पूर्व), मुंबई-५१.

मुख्य अधिकारी, मुंबई इमारत दुरुस्ती व पुनर्रचना मंडळ, मुंबई.

सह पोलीस आयुक्त, वाहतूक, मुंबई.

मुख्य वास्तुशास्त्रज्ञ, सार्वजनिक बांधकाम विभाग, मुंबई.

संचालक, नगर रचना, महाराष्ट्र राज्य, पुणे.

उपसंचालक, नगर रचना, बृहन्मुंबई, मुंबई.

उप सचिव, नगर रचना, नगर विकास विभाग, मंत्रालय, मुंबई.

प्रमुख अभियंता (वि.नि.), बृहन्मुंबई महानगरपालिका मुंबई.

व्यवस्थापक, शासकीय मध्यवर्ती मुद्रणालय, चर्नीरोड, मुंबई.

(त्यांना विनंती करण्यात येते की, सोबतची अधिसूचना महाराष्ट्र शासनाचे साधारण राजपत्रात
भाग-१ मध्ये प्रसिध्द करण्यात येवून त्याच्या प्रत्येकी ३५ प्रती नगर विकास विभाग, (नवि-११), मंत्रालय,
मुंबई-३२ व उप संचालक, नगर रचना, बृहन्मुंबई, मुंबई यांना पाठविण्यांत याव्यात.)

कक्ष अधिकारी (संगणक कक्ष) (नवि-२९), नगर विकास विभाग, मंत्रालय, मुंबई ४०० ०३२.

(त्यांना विनंती करण्यात येते की, सोबतची अधिसूचना विभागाच्या वेबसाईटवर प्रदर्शित
करण्याबाबत आवश्यक ती कार्यवाही करावी)

निवडनस्ती (नवि-११).

सेक्शन ३७ फाईल.

**Maharashtra Regional & Town
Planning Act, 1966.**

- **Modification under section 37 (2) of the said Act.**
- **Modification to Regulation 33(9) of DCR for Gr. Mumbai.**

GOVERNMENT OF MAHARASHTRA
Urban Development Department,
Mantralaya, Mumbai 400 032.
Dated 2nd March, 2009.

NOTIFICATION

No. TPB 4307/2346/CR-106/2008/UD-11:

Whereas the Development Control Regulations for Greater Mumbai, 1991 (hereinafter referred to as "the said Regulations") have been sanctioned by Government in Urban Development Department, under section 31(1) of the Maharashtra Regional and Town Planning Act, 1966 (hereinafter referred to as "the said Act") vide Notification No. DCR 1090/UD-11(RDP) dated 20th February, 1991 to come into force with effect from 25th March, 1991.

And whereas, Regulation 33(9) of the said Regulations deals with the repairs & reconstruction of cessed buildings & Urban Renewal Scheme to be developed by MHADA & Municipal Corporation of Gr. Mumbai, which underwent modification (hereinafter referred to as "the said modified Regulation") vide Urban Development Departments Notification No. TPB-4391/1653/CR-188/91/UD-11 dated 25/1/1999, after following the procedure laid down under section 37 of the said Act.

And whereas, Govt. in Housing Department has declared the "Housing Policy" (hereinafter referred to as "the said policy").

And whereas, the said policy declared incentivising redevelopment of old and dilapidated buildings through cluster approach in Urban Renewal Scheme. It was also proposed to encourage development project through joint ventures in which MHADA along with the tenants, landlords and private developers, if necessary will come together for undertaking redevelopment of cluster.

And whereas, Govt. decided to prepare a new set of regulation No. 33(9) by replacing the existing regulation No.33(9) (hereinafter referred to as "the said proposed modification").

And whereas, in view of the facts and circumstances mentioned above and in exercise of the powers contained in sub-section (1AA) of section 37 of the said Act, Government had issued the notice of even no. dated 30/6/08 (hereinafter referred to as "the said Notice") regarding the said proposed modification, for inviting suggestions/objections from any person with respect to the said modification. Thereafter, vide notice of even No. dated 1/8/2008 the

period for inviting suggestions/objections was extended for further period of 30 days from the date of the revised notice.

And whereas, the said notice was published in the Government Gazette (Ordinary) dated 17/7/08 & 14/8/08 and in the news paper namely Free Press Journal (English) dated 9/7/2008 & 4/8/2008.

And whereas, as per the said notice Government had appointed Deputy Director of Town Planning Gr. Mumbai as an officer under section 162 of the said act (hereinafter referred to as "the said officer") to scrutinize any suggestions/objections received and to grant hearing to the persons submitting suggestions/objections including say of the Municipal Corporation of Gr. Mumbai (hereinafter referred to as "the said Corporation") and to submit his report to the Government regarding the said modification.

And whereas, the said officer has submitted his report vide letter No. DDTP/Br.Mumbai/DCR 33(9)/3618 dated 3/10/08 to the Government (hereinafter referred to as "the said Report"). He has recommended to sanction the said modification with some changes considering the suggestions/objections received from the general public.


And whereas, after consulting Director of Town Planning, Maharashtra State, Government is of opinion that the said modification should be sanctioned with some changes.

Now therefore, in exercise of the powers vested under section 37(2) of the said Act, Government hereby sanction the said modification with certain changes as mentioned below:-

MODIFICATION

- A) Regulation 33(9) of the said regulation is deleted and replaced as per the Schedule attached herewith.
- B) Fixes the date on which the said modification is published in the official gazette, as the date on which modification shall come into force.
- C) directs the said Corporation that, in the Schedule of Modification sanctioning the said Regulations, after the last entry, the schedule referred to as (A) above shall be added.

By order and in the name of the Governor of Maharashtra,



(Abhiraj Girkar)

Under Secretary to Government.

SCHEDULE

Accompaniment to Urban Development Departments Notification No. TPB 4307/2346/CR-106/2008/UD-11 Dated 2nd March, 2009.

33(9) : Reconstruction or redevelopment of cessed buildings / Urban Renewal Schemes on extensive area.

For reconstruction or redevelopment of cessed buildings / Urban Renewal Schemes in Island City, undertaken by (a) the Maharashtra Housing & Area Development Authority or Municipal Corporation of Gr. Mumbai either departmentally or through any suitable agency or (b) MHADA/MCGM jointly with land owners and/or Co-op. Housing Societies of tenants / occupiers of buildings or Developer or Co-op. Housing Society of hutment dwellers therein, (c) Independently by land owners and/or Co-op. Housing Societies of tenants / occupiers of buildings or Developer, the FSI shall be 4.00 or the FSI required for rehabilitation of existing tenants / occupiers plus incentive FSI as given in Appendix-III-A, whichever is more.

Appendix-III-A

Regulations for reconstruction or redevelopment of cessed buildings / Urban Renewal Schemes.

- 1.1. "Urban Renewal Scheme" means any scheme in the Island City of the Mumbai having a minimum area of 4000 sq.mtrs. bounded by existing distinguishing physical boundaries such as roads, nallas, railway lines etc. and which consists of a mix of structures of different characteristics such as -
- i) Cessed buildings of 'A', 'B' & 'C' categories in Island City, which attracts the provisions of MHAD Act, 1976.
 - ii) Buildings erected before 30/9/1969 and acquired by MHADA under MHAD Act, 1976.
 - iii) All buildings belonging to the Government, semi Government, and MCGM including institutional buildings, office buildings, tenanted municipal buildings and buildings constructed by MHADA, that are constructed prior to 30.09.1969 and having built up area upto 2000 sq.mt. However, prior permission of concerned department shall be obtained before granting development permission.
 - iv) Other buildings erected before 30/9/1969 which are, by reason of disrepair or have structural / sanitary defects, unfit for human habitation or are by reasons of their bad configuration or the narrowness of streets, dangerous or injurious to the health of the inhabitant of the area as may be certified by the officer designated by MHADA / MCGM.
 - v) Provided that building erected after 30/9/69 which fulfills the above conditions shall be considered with prior approval of State Govt.
 - vi) Slum areas declared as slums under section 4 of Maharashtra Slum Areas Act, 1971 or slums on Public lands prior to 1.1.1995 or such other reference date notified by the government, provided that in the

mix of structures of different characteristics, the percentage of slum area and area under the buildings constructed after 30.09.1969 if any included in the Urban Renewal Scheme shall not exceed 25% (i.e. 1/4) of the total plot area.

- vii) Any land belonging to the Government, semi Government, MCGM and MHADA (either vacant or built upon) which have been given on lease or have the tenure of Occupant Class II which falls within the proposed Urban Renewal Scheme shall be made available for the project subject to payment of premium at the rate of 25% of the Ready Reckoner rate of that year.

Explanation: If some areas are previously developed/ are in the process of development, under the different provisions of the DCR, such areas can be included in cluster for the purpose of calculation of area of cluster. However, such area along with slum area and area under buildings constructed after 30/9/1969, as per Regulation 1.1 (vi) above, shall not exceed 25% of total plot area. FSI admissible for such areas shall be admissible as per the relevant provisions of DCR under which the areas are developed/under development. However, it shall be necessary to obtain consent of owner/owners of such areas to become part of the cluster.

2. Eligibility for Urban Renewal Scheme :

a. Buildings:

- i. No new tenancy created after 13/6/96 shall be considered. Further unauthorized construction made in buildings shall not be considered while computation of existing FSI. A certified inspection extract of the Corporation for the year 1995-96 or Courts' order proving the existence of tenements prior to 13/6/96 shall be considered adequate evidence to establish number of tenements. However, the Govt. may issue comprehensive guidelines for determination of eligibility of occupiers and tenants therein.
- ii. The list of occupants and area occupied by each of them in municipal buildings shall be certified by MCGM. The list of occupants and area occupied by each of them in other buildings, excluding slums, and irrevocable written consent as specified in 3(a) shall be certified by Mumbai Building Repair & Reconstruction Board.
- iii. Mezzanine floors constructed prior to 13.06.1996 and regularized subsequently will be eligible for rehab and incentive FSI.

b. For slum Areas:

- i. All the inhabitants of existing structures whose names and structures are included in the Assembly Election roll of 1/1/1995 or such other reference date notified by the government or a date prior thereto and who are staying there at.
- ii. A structure shall mean all the dwelling areas of all persons who are enumerated as living in one numbered house in the electoral roll of the latest date, upto 1st January 1995 and regardless of the number of persons, or

location of rooms or access.

- iii. The eligibility of the participants will be certified by the Competent Authorities as notified under the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971.
3. a) Redevelopment or Reconstruction under Urban Renewal Scheme may be permitted in pursuance of an irrevocable written consent by not less than 70 per cent of the eligible tenants/occupiers of each plot involved in the Urban Renewal Scheme or as provided in MHAD Act, 1976. If MHADA / MCGM undertakes development directly then consent of 70% tenants/occupiers for reconstruction or redevelopment is not required.
b) All the eligible occupants / tenants of the building shall be rehabilitated in the redeveloped building.
4. Each occupant/ tenant shall be rehabilitated and given the carpet area occupied by him for residential purpose in the old building subject to the minimum fixed carpet area of 27.88 sq.mt. (300 sq.ft.) and maximum area equivalent to the area occupied in the old building. In case of non-residential occupier, the area to be given in the reconstructed building will be equivalent to the area occupied in the old building.

Provided that, for the carpet area for the residential purpose exceeding 70 sq.mt. the Cost of construction shall be paid by the tenant/occupant to the developer. The cost of construction shall be fixed by Govt. from time to time. However, the carpet area exceeding 70 sq.mt. shall be considered for rehab FSI but shall not be considered for incentive FSI.

The slum dwellers shall be eligible for the area admissible as per DCR 33(10)

5. The FSI for rehabilitation of the existing tenants / occupiers, in a redevelopment / reconstructed building, owners share, Corporation / MHADA's share and incentive FSI shall be as under –
 - a) The total permissible FSI shall be on gross plot area excluding reservations / designations, but including the built up area under reservation / designation.

Provided that in all the projects undertaken jointly with the land owners and / or Co-op. Housing Societies of tenants/occupiers of the buildings or Developer or Co-op. Housing Society of hutment dwellers therein where the rehab FSI exceeds 2.50, MHADA/MCGM shall get 5% of built up area for FSI 4.00 free of cost. This additional area shall be included in rehabilitation area and incentive to the extent of 50% shall be available for this area.

- b) The FSI for Urban Renewal Schemes in CRZ area, shall be governed by the MOEF notifications issued from time to time.

c) The incentive FSI admissible against the FSI required for rehab shall be as under :-

- i) Where the total area of amalgamated plots is between 4000 - 8000 Sq.mt. then the incentive FSI admissible will be 55%.
- ii) Where the total area of amalgamated plots is between 8001 - 12000 Sq.mt. then the incentive FSI admissible will be 65%.
- iii) Where the total area of amalgamated plot is above 12001 - 16000 Sq.mt., then the incentive FSI admissible will be 70%.
- iv) Where the total area of amalgamated plot is above 16001 - 20000 Sq.mt., then the incentive FSI admissible will be 75%.
- v) Where the total area of amalgamated plot is more than 20000 Sq.mt., then the incentive FSI admissible will be 80%.

If any new area is added and if there is change in the slab prescribed above, the incentive FSI for the additional area in the changed slab shall be determined as per the area falling the next slab. However augmentation of area of cluster is not allowed after completion of scheme.

Provided that amalgamation of the plots from Revenue Department shall be insisted before the issue of commencement certificate.

- d) In the proposal of maximum 4.00 FSI the permissible maximum FSI over and above "rehab + incentive" as per (c) above shall be shared in terms of built up area between M.C.G.M./MHADA (in proportionate to their plot areas) and private developer in Joint Venture in the ratio of 1:0.5

Provided that the area equivalent to the market value of area admissible as per the prescribed percentage of built up area and the share of built up area admissible under 5(a) and 5(d) respectively can be made available within the same municipal ward of MCGM.

- e) In the urban renewal scheme for those structures containing other than as mentioned in 1.1 above, for the land component area beneath such structure, the FSI shall be admissible as per rule No.32 and for remaining plot of land area the FSI shall be admissible as per 5(a) to (c) above.

With the prior approval of the High Power Committee, occupant of tolerated structures encroaching over roads in nearby vicinity should be allowed to be included in the scheme and its built up area shall be included in rehab area, provided the structure is permanently removed.

6. From the entire FSI available under clause 5, entire rehab and MHADA's share shall be allowed to be utilized on plot / plots under redevelopment scheme. In case of part of incentive FSI, is not proposed to be utilized on the

same plot, the benefit of transferable development rights to be used in suburbs or extended suburbs as per D.C. Regulation No 34 appendix VII, shall be given.

Even if the scheme partly includes slum, the TDR generated it will be considered at par with reservation TDR.

7. Construction or reconstruction of slums / buildings falling under Reservations contemplated in development shall be permitted as under –
 - a. Redevelopment / reconstruction in any zone shall be allowed to be taken in site without going through the process of change of zone. However, for the industrial user, the existing segregating distance shall be maintained from the existing industrial unit.
 - b. Any land under non-buildable reservations, admeasuring only upto 500 sq.mt. may be cleared by shifting the existing tenants from that site.
 - c. If the area under non buildable reservation in the such area is more than 500 sq.mt., minimum 50% of the area under reservation shall be developed for same purpose and handed over to MCGM, subject to minimum of 500 sq.mt. and remaining land shall be allowed for development. The said provision is subject to Hon'ble High Court's order in Writ Petition No. 1152/2002 (City Space V/s. Govt. of Maharashtra)
 - d. All the reservations in the Development shall be rearranged if necessary with same area and same width of access road or as required under DCR, whichever is more.
 - e. For the reservation of parking lot on land, built up area equivalent to zonal permissible FSI for area under reservation in that plot shall be made available free of cost for the Corporation or for any other Appropriate Authority. Built up area to be handed over shall be free of FSI.
 - f. For other buildable reservations on land, builtup area equal to 60% of zonal permissible FSI under reservation or existing built up area of the amenity whichever is more in that plot shall be made available free of cost for the Corporation or for any other Appropriate Authority. Built up area to be handed over shall be free of FSI.
8. 30% of the incentive FSI can be used for non-residential purposes otherwise permissible in the DCR.
9. An amount of Rs. 5000/- per sq. mt. shall be paid by the owner / developer/ society as additional development cess for the builtup area over and above the normally permissible FSI, for the rehabilitation and free sale components. This amount shall be paid to the Corporation in accordance with the time schedule for such payment as may be laid down by the Commissioner, MCGM provided that the payment of installments shall not go beyond the completion of construction. This amount should be kept in separate account and shall be used for Scheme to be prepared for the improvement of off-site infrastructure around the cluster. The above development cess shall be enhanced @ 10.00% every three years.
10. For smooth implementation of the redevelopment scheme undertaken by owners and/or Co-operative Housing Society of the tenants / occupiers, the temporary transit camps may be permitted on the same land or land situated

elsewhere belonging to the same owner/ developer with the concessions permissible under SRA project under Regulation 33(10) of these regulations. Such transit camps should be demolished within one month from the date of occupation certificate granted by the Corporation for the reconstructed/rehabilitation building.

11. Non conforming activities – All activities which are existing shall be allowed to be reaccommodated regardless of the non conforming nature of the activities except those which are hazardous and highly polluting and except in cases where the alternative accommodation have already been provided elsewhere by the Municipal Corporation.

12. Relaxation in Building and other requirements.

In case of tenement of 27.88 sq. mt. area for rehabilitation / additional tenement to be given to Repairs Board / Mumbai Board/M.C.G.M. following components are included.

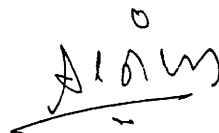
- 12.1 The calculation of FSI for all purposes shall be on gross area i.e. without deducting any percentage for recreation open space. This shall not affect the requirement of physical open space keeping aside the said recreational open space on site as per the prevailing D.C. Regulations.
- 12.2 The provisions in DCR 38(22) relating to balcony will apply to the scheme with the following modifications. There shall be no restriction on zone and balcony shall not reduce marginal open space to less than 3.00 metres. However, at ground level minimum 4.5 mt. clear margin shall be maintained. For calculation of area of 27.88 sq.mt. the area of the enclosed balcony shall be included.
- 12.3 Areas of common passages not exceeding 2.00 mt. in width, provided in rehabilitation component and Repairs Board/M.C.G.M. component to give access shall not be counted towards FSI.
- 12.4 Front and marginal open spaces, for a building having height upto 24.0 mt. in the rehab component or composite building, shall be 4.5 mt. for these buildings.
- 12.5 Notwithstanding the provisions in DC Regulation 29 (Table 10) where the location of the plot abuts DP Road having width of 18.3 mt. and above, the front marginal open space shall not be insisted upon beyond 4.5 mt. provided, it is not an express highway of road wider than 52 mt.
- 12.6 Where the location of the plot abuts a trained nallah, the marginal open space along the nallah shall not be insisted upon beyond 4.5 mt. from the edge of the trained nallah. Or as per requirement of SWD department of MCGM. whichever is greater.
- 12.7 The distance between any two rehabilitated buildings shall not be less than 6.00 mt.

- 12.8 If the height of building is more than 24 mt., 6 mt. wide marginal open space or as per the requirement of CFO whichever is greater shall be considered.
- 12.9 A composite building shall contain at least 50 percent of the built up area as rehabilitation component.
- 12.10 Wherever more than the minimum front and marginal spaces have been provided, such additional area provided may be considered as part of the amenity open space in the project comprising both rehabilitation and free sale components, and without charging any premium, in relaxation of the stipulations in D.C. Regulation No.23, wherever necessary.
- 12.11 Pathways and means of access - The ratio between the length of the pathway and the width thereof shall be as follows.

Length	Width
Upto 20 meters	1.5 meters
21 to 30 meters	2.0 meters
31 to 40 meters	2.5 meters
41 to 50 meters	3.0 meters.

- 12.12 Between the dimensions prescribed for the pathway and marginal distances, the larger of the two shall prevail. The pathway shall act as access wherever necessary. The building shall be permitted to touch pathways.
- 12.13 The means of access shall be normally governed by provisions of DC Regulation No.22. However, in the project, wherever the design of the buildings up to 24 mtr height in the same land requires relaxation, it may be given. High rise building shall be permitted only on access having width of 9 mtrs.
- 12.14 Even if the recreational open space is reduced to make the project viable, a minimum of at least 10 percent of plot area shall be provided as recreational open space. In addition to this 10 percent of plot area shall be earmarked for amenity space which can be adjusted against the DP reservation if any.
- 12.15 Premium shall not be charged for exclusion of staircase and lift well etc. as covered under the provisions of DC Regulation 35(2)(c).
- 12.16 In order to make the urban renewal scheme viable, the Municipal Commissioner shall be competent to sanction any relaxation in marginal open spaces except front marginal open spaces and parking requirement wherever necessary due to bonafide hardship, for reasons to be recorded in writing which shall not affect general and fire safety requirements.

- 12.17 All relaxation outlined hereinabove shall be given in the rehabilitation component and also to the composite buildings in the Project Premium shall not be charged for all or any of the relaxation's given hereinabove or for any other mentioned in DC Regulation 35(2)(c)
- 12.18 The parking in the scheme shall be provided as per modified DCR 36 or one car park per tenement of sale component, whichever is higher.
13. The approving /sanctioning authority for the building plans under the scheme will be the Municipal commissioner as per the MMC Act &MRTP Act even if the scheme partly consists of declared slums/slums on Municipal lands prior to 1.1.1995 or such other reference date notified by the government.
14. Religious structures existing prior to redevelopment if allowed in accordance with the guidelines issued by government from time to time as part of redevelopment, shall not exceed the area that existed prior to redevelopment.
15. Restriction on transfer of tenements shall be governed by provision of Rent Control Act till Coop. Society is formed and after that the same shall be governed by the provision of Maharashtra Co-op. Society's Act. However, tenements constructed for slum rehabilitation shall not be transferred for the period of 10 years.
16. A Corpus fund is to be created by the Developer which will take care of the maintenance of the building for a period of 10 years, to be decided by the High Power Committee under clause 18.
17. Those schemes for which approval has been given under DCR 33(7) and for which work has not yet started, can be considered for approval under DCR 33(9) provided they satisfy all the conditions for approval under DCR 33(9).
18. A High Power Committee (HPC) will be constituted which will approve the schemes with the previous sanction of the Govt. under DCR 33(9). On approval by this High Power Committee, the proposal will be submitted to MCGM for approval of plans. The Govt. will have the powers for any relaxations/modifications in the rules. Separate guidelines will be issued for the HPC.



(Abhiraj Girkar)

Under Secretary to Government.